USDA United States Department of Agriculture | Forest Service | Region One | Northern Region
200 East Broadway
Missoula, MT 59802

File Code: 1570 (218)
Date: May 28, 2015

Dear Objector:

This letter is in response to your objection of the Clear Creek Integrated Restoration Project (project) located on the Nez Perce-Clearwater National Forest (Forest). I received objections on the project from Native Ecosystems Council (Sara Jane Johnson, lead objector) and Alliance for the Wild Rockies (Mike Garrity); the Nez Perce Tribal Executive Committee (Silas C. Whitman); and Friends of the Clearwater (Gary Macfarlane, lead objector), Alliance for the Wild Rockies (Michael Garrity and Gary Macfarlane), Al Espinosa, Ashley Lipscomb, Harry Jageman, and Alan Schonefeld.

I have read the objections and reviewed the Final Environmental Impact Statement (FEIS), the draft Record of Decision Notice (DROD), the project file, and considered the comments submitted during the opportunities for public comment for this project. Based on this review, conducted in accordance with 36 CFR 218, I understand the disclosed environmental effects of this project.

The 36 CFR 218 regulations provide for a pre-decisional administrative review process in which the objector provides sufficient narrative description of the project, specific issues related to the project, and suggests remedies that would resolve the objection (36 CFR 218.8). The regulations also allow, in part, for the parties to meet in order to resolve the issues (36 CFR 218.11(a)). The objection resolution meeting was held in Kamiah at the Nez Perce-Clearwater Forest Supervisor's Office on May 20, 2015, from 10:30 a.m. until 12:30 p.m. Dave Schmid from the Forest Service Northern Regional Office attended the meeting as the Objection Reviewing Officer, along with Forest Supervisor Cheryl Probert as the Responsible Official, District Ranger Joe Hudson, and project team leader Lois Hill. Representatives from the Clearwater Basin Collaborative also attended.

As specified at 36 CFR 218.11(b), I must provide a written response that sets forth reasons for the response; however, this written response need not be point-by-point. The regulations also permit the Objection Reviewing Officer to consolidate objections and issue one or more responses. I have consolidated the issues from all of the objections and I am issuing one response letter.

The Responsible Official and I have reviewed the project in light of the issues presented in your objections. I have considered the issues and suggested remedies and included my reasons for response to these issues, which are detailed below.

OVERVIEW OF PROJECT

The proposed selected alternative in the DROD would authorize vegetation and road management activities as described in Alternative C of the FEIS. The project would manage vegetation in the area to create a more diverse and resilient forest structure by creating a range of age and size classes, species diversity, and disturbance patterns that more closely emulate the results of natural disturbance. The project would move the landscape toward forest structure and patch sizes that match the scale of widespread and increasing root diseases and insect infestations.

The project would improve watershed function and stream conditions by reducing road densities and repair existing roads and culverts to reduce sediment and improve drainage. Watershed function would also be improved by restoring compacted soils and adding organic material on old skid trails and landings.

Overall, if selected, Alternative C would accomplish the following: A total of 4,156 acres would be harvested using regeneration prescriptions, 4,220 acres would be commercial thinned, and 1,887 acres would be precommercial thinned. Improvement harvest would be done on 331 acres. Native grass species would be restored on 41 acres. Prescribed fire would be applied to 1,371 acres in the Clear Creek Roadless Area.

RESPONSE TO ISSUES & SUGGESTED REMEDIES

ISSUES NOT REQUIRING FURTHER DISCUSSION OR INSTRUCTIONS

The objections raised the following issues/allegations that I have determined do not require additional discussion or instruction to the Forest:

Issue 1: The Forest used a flawed soils forest plan amendment and process.

Issue 2: The Forest failed to comply with Forest Plan and regional soil quality standards.

Issue 3: The Forest failed to analyze and disclose the cumulative watershed level implications of chronically compacted or otherwise detrimentally disturbed soils.

Issue 4: The Forest violated the National Environmental Policy Act (NEPA) by analyzing an inadequate range of alternatives.

Issue 5: The Forest violated NEPA by inadequately analyzing cumulative effects.

Issue 6: The Forest violated the Federal Advisory Committee Act, NEPA, and the Collaborative Forest Landscape Restoration Act.

Issue 7: The project's purpose and need are based on dry forest types found in a small portion of the project area rather than the dominant moist forest type.

Issue 8: Vegetation assumptions were not based upon either best available science or logical inferences.

Issue 9: The project would harvest stands not meeting culmination of mean annual increment.

Issue 10: The Forest incorrectly analyzed invasive/noxious weeds.

Issue 11: The Forest failed to account for non-system roads and failed to take a hard look at access management.

Issue 12: The DROD and FEIS failed to meet NEPA and the National Forest Management Act (NFMA) regarding desired future conditions and documents that have not gone through NEPA analysis.

Issue 13: The Forest improperly identified and evaluated roadless areas.

Issue 14: The Forest failed to insure viability of Management Indicator Species and Threatened and Endangered Species, the cumulative effects analyses are lacking and should incorporate thresholds developed to maintain viable populations at the forest level, and Forest monitoring to ensure viability is lacking.

Issue 15: The FEIS analysis for fisher habitat was inadequate and not based on best available science.

Issue 16: The long-eared and long-legged myotis habitat analyses were not supported by the best available science and significantly underestimate suitable habitat and project level impacts.

Issue 17: The goshawk habitat analysis was not supported by the best available science and significantly underestimates suitable habitat and project level impacts.

Issue 18: Mountain quail habitat was underestimated.

Issue 19: The cumulative effects analysis for fire suppression was deficient.

Issue 20: The FEIS violated NEPA because the Forest Service has not insured the reliability of data relied upon by the FEIS's models and the Forest Service has not validated the models for the way the FEIS uses them

Issue 21: The Forest failed to meet standards of scientific integrity.

Issue 22: The analysis was inconsistent with travel management regulations and Forest Plan roads and trails standards.

Issue 23: The Forest Service used outdated FISHSED and NEZSED models.

RESPONSE TO ISSUES 1 THROUGH 23: Based on my review of the FEIS, the DROD, and the content in the project file, I find these issues/contentions do not require further discussion or instructions to the Responsible Official for one or more of the following reasons:

1) The proposed actions, even though not agreeable to some, are in compliance with applicable regional guidelines, the Forest Plan (to include amendments to the plan) and/or law, regulation and policy, as supported by adequate analysis and rationale made available in the FEIS and DROD and further supported by information in the project file;

2) The effects to resources and/or species have been appropriately addressed in the FEIS;

3) The Forest already provided an adequate and thorough response to the issue in the Response to Comments section in the FEIS;

4) The appropriate models, methodology, and/or science was applied and described in the FEIS and the analysis is adequate;

5) An adequate range of alternatives was considered, and the purpose and need was properly established based on Forest Plan direction;

6) The objector(s) misread or misinterpreted the information in the FEIS/DROD;

7) The issue, as presented by the objector, was too broad/vague to understand what effects/inadequacies were being alleged;

8) The requested information/data was already provided in the Draft EIS, FEIS and/or DROD.

ISSUES REQUIRING FURTHER DISCUSSION OR INSTRUCTIONS

While the above issues do not require additional discussion or instructions, based on my review of the FEIS, the DROD, and the content in the project file, I find the following issues require further discussion and instruction to the Responsible Official:

Issue 24: The objector claims the Forest failed to show an upward trend in water quality as required by the Forest Plan.

Response: An aquatics upward trend analysis has been completed and is included in the FEIS (pp. 3-14 through 3-16, and Appendix J). Appendix J identifies the past, recent, and proposed watershed restoration activities that have already or are expected to improve(d) fish habitat conditions within the affected prescription watersheds. The rationale used to determine an upward trend in aquatic habitat carrying capacity for Pine Knob, Middle Fork and the mainstem of Clear Creek prescription watersheds are described on FEIS pages 3-15 and 3-16. The upward trend conclusions presented are consistent with the established Forest direction (Conroy and Thompson 2011; *The implementation guide to Appendix A of the Nez Perce National Forest Plan*). However, the FEIS lacks an explanation of what analysis was used to reach these conclusions.

Upward trend analysis should not be determined solely based on cobble embeddedness levels in stream channels, as you suggest. Cobble embeddedness is one of many sources available to evaluate existing condition and present or future trends. Furthermore, cobble embeddedness surveys were conducted by Forest personnel in 2011 and 2012 to determine compliance with

Forest Plan water quality objectives (FEIS p. 3-3). The methodology used in 2011 and 2012 was consistent with the methods used to establish fish/water quality objectives in the 1987 Forest Plan.

Instruction: *Appendix J includes several tables that illustrate past, recent, and proposed land management activities within each prescription, but the FEIS lacks a corresponding explanation of how the activities have affected fish habitat within the streams of each prescription watershed. I am instructing the Forest to include additional documentation of the habitat trend analysis to help demonstrate and support the conclusions of upward trend.*

Issue 25: The objector alleges that the analysis for snag habitat was not adequate, that the project will not maintain adequate snag habitat for wildlife, Forest Plan standards for snag habitat will not be met, and that the cumulative effects analysis for snag habitat was inadequate.

Response: Retention of snags is addressed in design criteria in the FEIS and is consistent with Forest Plan direction. The FEIS discloses effects under the individual species that depend on snags, which consist of the following: bats, black-backed woodpecker, fisher, pygmy nuthatch, American marten, and pileated woodpecker.

Instruction: *I am instructing the Forest to include a table or narrative in the FEIS to explain project and cumulative effects on snags, how these snag effects are pertinent to relevant wildlife species, and how each Forest Plan snag management standard is addressed.*

Issue 26: The objector alleges that the project does not comply with Forest Plan standards for elk habitat and the analysis does not appropriately address management area direction. Further, you claim that the analysis for elk habitat effectiveness, hiding cover, thermal cover, and elk forage is inadequate and best available science was not used: As a result, the objection alleges that the Forest failed to take a "hard look" at the project's effects on elk and elk habitat in the project area in violation of NEPA and the regulations at 40 CFR 1500.1(b) and 40 CFR 1502.24 and the Forest's conclusions are contradictory.

Response: The FEIS analysis characterizes effects on elk by discussing the quantitative changes in elk habitat effectiveness, and qualitative changes in habitat quality and quantity. Effects on elk security are discussed qualitatively, and references to effects of disturbance on elk and changes in vulnerability of elk to hunters are included. However, the FEIS is not explicit in how Forest Plan standards for elk were addressed.

Instruction: *I am instructing the Forest to evaluate the science presented by the objectors for relevance to the project, and the FEIS analysis needs to incorporate the science included in Servheen (1997) for analyzing potential project effects on elk summer range. For clarification purposes the FEIS should state how each elk management standard was addressed in order to make Forest Plan compliance clear.*

Issue 27: The objector alleges the old growth forest plan amendment and process is flawed, and should consider the best available science including Iverson et al 1996; Harris, 1984; Zack et al., 1997; and Hayes, 1980.

Response: The Green et al. (1992) recommendations are considered the best available science for old growth determinations. Errata notes from 2005 to 2011 show recent updates to the original document. The FEIS relies on data collected by stand exams to determine if a stand meets the attributes the authors have developed in their tables. Stand exams were also used to verify old growth for Appendix N of the Forest Plan.

The Clear Creek Project area contains an average of 11 percent old growth, meeting the Forest Plan standard of at least 5 percent of verified old growth in each old growth analysis area (FEIS p. 3-104). Additionally, another 4 percent of unverified old growth is present in the area (FEIS p. 3-105). No treatment of old growth in Management Area-20 would occur under any alternative (FEIS p. 3-107).

After review I find that the FEIS complies with NEPA and NFMA, and used the best currently available science. Management activities would comply with Forest Plan requirements. The old growth amendment presented in the FEIS is a clarifying amendment affirming that Green et al. 1992 is the best available science for the definition of old growth. It moves a very generic definition to one that allows consideration of ecological site conditions. The scientific integrity of Green et al. is widely accepted and I disagree that this "degrades" the Forest Plan standards. The amendment would not change the Forest Plan numerical standards for old growth, or result in any changes in old growth treatments within the project area. The suggested remedy would not improve or enhance the analysis.

Instruction: *I am instructing the Forest to consider the literature referenced in this issue, and address it in the body of the FEIS as necessary. I am also directing the Forest to clearly describe what part(s) of Appendix N are being replaced by the amendment and what parts are being retained unchanged.*

Issue 28: The objector alleges that the pileated woodpecker habitat analysis is not supported by the best available science and significantly underestimates suitable habitat and project level impacts. The objector alleges the analysis should have included Bull et al. 2007, and Bull and Holthausen 2003.

Response: The Nez Perce Forest Plan includes pileated woodpecker as a management indicator species for old growth forest. The standard is that viable populations will be maintained (Forest Plan II-6).

The objector alleges that habitat and impacts to pileated woodpeckers are underestimated. The analysis relied on numerous scientific papers – including Bull and Holthausen (2003), amongst other works of Evelyn Bull – to establish and identify stand characteristics that are most often selected as nesting habitat by pileated woodpecker (FEIS p. 3-197). The Forest used available vegetation data to identify areas having appropriate stand characteristics.

Impacts to key pileated woodpecker habitat components, such as snags and canopy cover, are described in the FEIS. Impacts are described using context and intensity, as well as the actual

changes in structure. The FEIS acknowledges that regeneration harvest would reduce habitat quality and simplify habitat by reducing canopy cover and layering, large downed wood, and standing snags in treated areas.

Project design criteria and silvicultural prescriptions would limit environmental effects to woodpecker habitat by retaining large snags (FEIS p. 2-9) and green trees for future nest trees. As a MIS for old growth, risk to the viability of pileated woodpecker is extremely low, because this project does not harvest old growth and the project area meets Forest Plan standards for old growth (FEIS 3-105).

Over 12 field surveys were conducted in the project area for woodpeckers. Woodpecker sightings were also noted from Forest Service personnel (3-196). There is an increasing population trend for pileated woodpeckers in the Northern Rockies and Idaho.

Given that pileated woodpeckers are common and widespread in the project area and across the Forest, I disagree that impacts are underestimated.

I find that the consideration of impacts includes scientific integrity and is adequate to show why more study is not warranted. The FEIS complies with NEPA and NFMA. A supplemental FEIS would not improve or change the findings in the analysis.

Instruction: *I am instructing the Forest biologist to consider Bull et al. 2007 and other suggested literature and determine if it adds to the analysis.*

Issue 29: The objector alleges that the Equivalent Clearcut Area (ECA) Analysis in the FEIS is flawed.

Response: The objection provided relevant points regarding how ECA model results could be used to analyze effects of this project at a scale smaller than the current subwatershed boundaries. The ECA model was developed for use on third to fifth order drainages (Belt 1980) and was validated on the Nez Perce National Forest (King 1989), yet the current FEIS only includes applications at the fifth order drainage and larger watershed areas. It is appropriate to also use the ECA model to estimate water yield increases at smaller scales, but it does not directly consider hydrologic responses in smaller headwater streams, such as first and second order tributaries. The watershed effects analysis within the FEIS should be updated to reflect interpretations of the ECA model results when applied at the Forest Plan prescription watersheds scale, in addition to the current subwatershed boundaries.

Instruction: *I am instructing the Forest to run the ECA model at the prescription watershed scale and provide an interpretation of those model results to more fully explain the effects of project activities on water yield. Once these effects are analyzed, consider if any additional mitigation measures may be needed to maintain water quality condition at an acceptable level. Once additional ECA analyses are completed, the Forest Service will disclose results to National Marine Fisheries Service (NMFS) and determine what further analysis and possibly mitigation might be needed to conclude consultation on the project.*

Issue 30: The objector takes issue with the mechanisms in place to protect water quality and fish habitat (including species listed under the ESA) because they are not "failsafe" (BMPs – citing Espinosa et al. 1997, and PACFISH buffers - citing McClelland et al. 1997)

and not based upon the best available science. The objector does not believe that roads are temporary and believes that effects from temporary roads are longer term, and that we failed to look at cumulative effects from road reconditioning.

Response: The FEIS is consistent with NFMA, NEPA, the Forest Plan (including PACFISH), and other regulatory requirements and direction for protecting streams and fish habitat. I find that the science cited by the objector on Best Management Practices and PACFISH buffers do not reflect current data: first, many of the recommendations made regarding BMPs by Espinosa et al. have since been adopted as standard design features; second, the 1997 McClelland study does not reflect timely information on PACFISH buffers, which were not adopted until 1995.

I find that road activities were properly described in the FEIS. Temporary roads located within the boundaries of the harvest units were analyzed as part of a unit and were not run individually. Temporary roads outside of units were analyzed individually. This is based on model direction found in *The implementation guide to Appendix A of the Nez Perce National Forest Plan* (Conroy and Thompson 2011). In addition, the *Guide for Predicting Sediment Yields from Forested Watersheds* (Cline et al. 1981, p. 16) states "Nonspecified roads and skid trails internal to logging units are considered as part of logging effects discussed in the next section and should not be duplicated here." The effects of temporary roads are not assumed to be the "same as the logging unit," as the objector stated. Rather, the effects of temporary road and skid trail construction on sediment delivery to streams was included in the analysis of logging units. The basic erosion rates in NEZSED for logging units and temporary roads were compared, and the basic erosion rate associated with logging units was found to be large enough to include temporary road effects within units, particularly in this project where temporary roads will be built along or near ridgetops with no stream crossings.

***Instruction**: For clarification I am instructing the Forest to provide a general overview of the surface conditions of the roads that were visually surveyed for reconditioning. Where needed, I instruct the Forest to clarify impacts from road reconditioning in their analysis where effects may occur to fish habitat.*

Add clarification to the FEIS to distinguish between compliance with the Forest Plan, effective analysis and disclosure for NEPA, and compliance with terms and conditions under the NMFS June 22, 1998 Biological Opinion (for Section 7 Consultation on the Effects of Continued Implementation of Land and Resource Management Plans on Endangered Species Act Listed Salmon and Steelhead in the Upper Columbia and Snake River Basins).

Issue 31: The objector alleges that the Biological Assessment (BA) (and any concurrence or Biological Opinion) for listed anadromous fish is flawed because it is based upon faulty data.

Response: I have reviewed the BA and find that the FEIS and the BA are consistent with NFMA, NEPA, the Forest Plan (including PACFISH), Endangered Species Act, and other regulatory requirements and direction. The FEIS discussion on effects could benefit from clarification of effects associated with temporary roads and road reconditioning activities.

***Instruction**: Follow the instructions for Issues 29 and 30 above.*

Issue 32: The objector alleges that bull trout and their habitat are not properly evaluated in the FEIS.

Response: The FEIS and supporting documents use the best available science and properly disclose the effects to bull trout and habitat from project activities. However, the FEIS is not clear on how temperature data in Clear Creek was used to assess bull trout habitat.

***Instruction**: For clarification I am instructing the Forest to provide additional information on the surveys conducted to assess bull trout habitat, and include clarification of the temperature requirements for bull trout, particularly focusing on juvenile rearing.*

Issue 33: The objector alleges that the black-backed woodpecker habitat analysis is unclear, not supported by the best available science, and significantly underestimates suitable habitat and project level impacts.

Response: I concur that the FEIS does not provide a clear analysis of black-backed woodpecker habitat.

***Instruction:** I am instructing the Forest to clarify the affected environment characterization of black-backed woodpecker habitat, and should describe how the Forest-wide characterization of black-backed woodpecker habitat and additional disturbance events relate to each other and to the project area.*

The methods used to estimate black-backed woodpecker habitat in the project should be compared to the Bush and Lundberg (2008) habitat model.

I am instructing that the cumulative effects section better explain how this action affects black-backed woodpecker habitat in the context of the disturbance events that recently occurred in the analysis area, as mentioned in the Affected Environment section (FEIS p. 3-153).

I am instructing that the science presented by the objectors be reviewed for relevancy.

Issue 34: The objector alleges that the habitat analysis for American (pine) marten is unclear, not supported by the best available science, and significantly underestimates suitable habitat and project level impacts.

Response: I agree that the analysis is not clear. The analysis lists habitat factors used in the query to characterize marten habitat across the project area. The FEIS also references the Bush and Lundberg (2008) habitat model, which utilizes different criteria, to characterize marten habitat on a Forest-wide basis. The effects analysis acknowledges loss of habitat and addresses connectivity.

***Instruction:** I am instructing the Forest to compare and explain the results from the project specific marten habitat model with the results of the Bush and Lundberg (2008) habitat model.*

The rationale for the criteria used in the habitat selection query needs to be explained in order to clarify the project impacts, if any, to marten. In addition, I am instructing the Forest to review the science presented by the objectors for relevancy.

Issue 35 (a): The objector alleges that the description of project effects on flammulated owl habitat is unsupported. In particular, the amount cited as being treated by regeneration harvest was too high given the low availability of habitat within the project area.

Response: The FEIS states how much flammulated owl habitat is present in the project area based on modeling efforts and clearly states how much would be regenerated under Alternative C. I find that the analysis is supported but could be clarified.

***Instruction**: I am instructing the FEIS include a map illustrating where regeneration harvest would occur in relation to the areas modeled as flammulated owl habitat.*

Issue 35 (b): The objector alleges that the improvement harvest acres should be considered to be occurring in flammulated owl habitat, since improvement harvest would occur in older stands of Douglas-fir and ponderosa pine and those qualify as suitable habitat for flammulated owl. You allege variations in how improvement harvests will affect flammulated owl habitat.

Response: The FEIS states that improvement harvest would occur in 13 percent of the flammulated owl habitat in the project area under Alternatives B and C, and 4 percent under Alternative D. The FEIS states that old growth would be treated with improvement harvest.

***Instruction**: I am instructing the Forest to include additional explanation in the FEIS to clarify the results of the analysis. If necessary, a map should be included to show the differences between improvement harvest stands, flammulated owl habitat locations, and areas that would be treated through improvement harvest that do not qualify as suitable flammulated owl habitat.*

Issue 35 (c): The objector alleges that the analysis of effects of improvement harvest on pygmy nuthatch habitat is flawed. Specifically, because flammulated owl habitat is a subset of pygmy nuthatch habitat, the analysis of effects of improvement harvest on pygmy nuthatch habitat should result in acreages that are at least equal to acreages of flammulated owl habitat affected, but they are substantially lower.

Response: I agree with your contention that based on the queries present in the analysis, flammulated owl habitat should be a subset of pygmy nuthatch habitat: All habitat that meets the criteria for flammulated owl habitat also meets the criteria for pygmy nuthatch habitat. The results reported in the FEIS, however, do not corroborate this.

***Instruction**: I am instructing the Forest to clarify the analysis for effects of improvement harvest on pygmy nuthatch habitat.*

Issue 35 (d): The objector questions the reliance of the effects determination for flammulated owl on Samson (2006) and Bush and Lundberg (2008).

Response: The FEIS analysis cites Bush and Lundberg (2008) to characterize the amount of flammulated owl habitat present Forest-wide. Samson (2006) was used to support the statement in the FEIS that "there is no sign of decline in flammulated owls at the regional level".

***Instruction**: I am instructing the Forest to review for relevancy the additional science on flammulated owls provided by the objector.*

SUMMARY

In conclusion, I have reviewed your assertions that the project violates various environmental laws, regulations, polices, and the Forest Plan. My review finds the project is in compliance with these laws, regulations, policies, and the Forest Plan. I have in instances provided instructions for the Forest to provide additional or clarifying information to better demonstrate compliance with law, regulation, or policy.

Once these instructions are completed it will be clear the project and the analysis is in full compliance with all laws, regulations, policies, and the Forest Plan, and the Forest Supervisor may sign the Record of Decision for the project. My review constitutes the final administrative determination of the Department of Agriculture; no further review from any other Forest Service or Department of Agriculture official of my written response to your objection is available (36 CFR 218.11(b)(2)).

Sincerely,

DAVID E. SCHMID
Acting Regional Forester

cc: Ray G Smith
Cheryl Probert
Joe Hudson
Lois Hill